

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Writ Petition No.1785 of 2007

M/s. Nath Holding & Investment
Pvt.Ltd.

Petitioners

Vs.

Bank of India & anr.

Respondents

Mr.Ramadasan K.V. for petitioners.
Mr.S.R.Shinde, APP for State.

CORAM: B.H.MARLAPALLE, J.

September 20, 2007.

P.C.

. Heard Mr.Ramadasan, the learned counsel for the petitioner - company who is impleaded as an accused in CC No.2206/S/2002 before the learned Special Metropolitan Magistrate at the Small Causes Court at Mumbai and filed under Section 138 of the Negotiable Instruments Act, 1881. In the said complaint, the complainant - Bank filed its affidavit by way of examination-in-chief and at that stage the accused submitted an application purportedly under Section 145(2) of the N.I. Act and sought directions to direct the complainant to enter the witness box and to lead examination-in-chief. This application has been rejected by the trial Court on 23rd April

2007. The accused, therefore, filed Criminal Revision Application No.632 of 2007 which also came to be dismissed on 4/8/2007 by the learned Addl. Sessions Judge, Greater Mumbai. Hence this petition.

. At the first instance it must be noted that the criminal revision application filed by the accused was not maintainable. Secondly, PW 1 Mr.Naresh Sood, who had filed his affidavit in examination-in-chief on behalf of the complainant Bank on 7th March 2007 was substituted on the same day by another officer of the Bank who filed the documentary evidence along with the affidavit and he was ready to face the cross-examination. The trial Court noted that the said Officer had though filed his affidavit by examination-in-chief, the depositions therein were subject to just exception and his cross-examination. The witness was ready to face the cross-examination and, therefore, there was an opportunity for the accused to test the veracity of the documents filed along with the affidavit in examination-in-chief and the statements made therein. The application was obviously filed only to delay the trial of the complaint which has been pending since the year 2002.

. No interference is called for in the impugned order passed by the trial Court rejecting the application filed by the present petitioner. Hence the petition is rejected summarily.

(B.H.MARL